IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

-

WRIT PETITION NO : 25124 of 2004

Between:

P. Yellojamma, W/o. P. Yallanna, Hindu, Fair Price Shop Dealer,
Kurlapalli Village, Kalyandurg Mandal, Anantapur District.

..... PETITIONER

AND

The Revenue Divisional Officer, Dharmavaram, Anantapur District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue Writ order or direction more particularly one in nature of WRIT OF MANDAMUS declaring the action of the respondent in not issuing Notice, and not giving an opportunity of hearing before suspending the authorisation Under Clause 5 (4) of A.P. State Public Distribution system control order, 2001 as illegal, unjust, arbitrary.

Counsel for the Petitioner : KOTHAPALLI RAM MOHAN CHOWDARY

Counsel for the Respondent: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner was appointed as a fair price shop dealer of Kurlapalli Village, Kalyandurg Mandal, Anantapur District. Through proceedings, dated 29.11.2004, respondent suspended her authorization, on the basis of a report, dated 16.11.2004, submitted by the Mandal Revenue Officer, Kalyandurg. Petitioner challenges the same.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

From a perusal of the order, dated 29.11.2004, passed by the respondent, it is evident that the authorization of the petitioner was suspended on two grounds, viz, petitioner diverted 50.00 quintals of rice meant for distribution to persons for construction of latrines; and that she is taking steps to shift to a neighbouring village in the State of Karnataka. The suspension is directed pending enquiry. It is difficult to interfere with the impugned order, for the reason that the petitioner had an effective remedy by way of an appeal, and that suspension is only pending enquiry. It is true that the petitioner was not given an opportunity to explain about the allegations made against her. Out of the two allegations, the second one cannot constitute the basis for any action. It is only the apprehension expressed by the Mandal Revenue Officer that the petitioner may migrate to the State of Karnataka. So far as the first aspect of the matter is concerned, if the petitioner is able to satisfy the respondent

that she had properly distributed the rice supplied to her, there should not be any plausible objection for the respondent to take the same into account and pass appropriate orders. No useful purpose would be served by requiring the petitioner to avail the remedy of appeal.

Under these circumstances, the writ petition is disposed of directing that it shall be open to the petitioner to submit an explanation as well as proof, in relation to charge No.1, before the respondent without waiting for receipt of any formal show cause notice. Within one week from the date of such representation, the respondent shall pass appropriate orders in the matter of continuance or otherwise of the suspension against the petitioner. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 24-01-2005

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To

1. The Revenue Divisional Officer, Dharmavaram, Anantapur District.

2. 2CCs to the Government Pleader for Civil Supplies, High Court of A.P., Hyderabad. (OUT)

3. 2CD copies.